

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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UNITED STATES OF AMERICA

-against-

EZRA CHOWAIKI,

Defendant.

Case No. 18 cr. 323 (JSR)

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**VERIFIED PETITION OF JAMES O'KEEFE
ON BEHALF OF AIG PROPERTY CASUALTY COMPANY**

James O'Keefe, ("Petitioner"), being duly sworn, deposes and says:

1. I submit this Verified Petition pursuant to Federal Rule of Criminal Procedure 32.2 and 21 U.S.C. § 853(n), to assert AIG's superior right, title, and interest to that of Defendant Chowaiki and the United States Government for the following item set forth in the Amended Consent Preliminary Order of Forfeiture entered in the above-captioned action dated May 16, 2018: Takashi Murakami – *Jellyfish Eyes* ("the Work"). See Amended Consent Preliminary Order of Forfeiture, Docket Entry 19, at p. 2.

2. I am currently employed by AIG Consumer Lines as a National General Adjuster, and was the adjuster assigned to the insurance claim involving the Work. As such, I base this affidavit on my personal knowledge of the claim and the file maintained by AIG.

3. On May 22, 2004, Thomas Morgan, an insured of AIG Property Casualty Company ("AIG"), purchased "the Work" from Blum and Poc of Los Angeles, California for \$175,000. Attached as Exhibit 1 is a copy of the invoice for this purchase.

4. Attached hereto as Exhibit 2 is a copy of a Consignment Agreement ("the Agreement") by which Morgan loaned the Work to Chowaiki to sell on behalf of Morgan. The Agreement specified title would not pass from Morgan to Chowaiki unless full payment was

rendered. The Agreement expired on January 15, 2017; the Work was not returned and no payment was made. Instead, without Morgan's knowledge or consent, the Work was pledged by Chowaiki to Piedmont Capital LLC to obtain a loan.

5. Morgan had insured the Work and other items in his collection with AIG under policy no. PCG 0001858438, a redacted copy of the declarations page and schedule of items is attached as Exhibit 3. Accordingly, on or about November 14, 2017, Morgan submitted a claim to AIG when he learned that Chowaiki was being investigated by law enforcement and that Chowaiki was no longer in possession of the Work. AIG adjusted the claim by payment of \$450,000 to Morgan for the Work and in so doing acquired Morgan's right, title, and interest in the Work. A copy of the agreement between AIG and Morgan is attached as Exhibit 4. As AIG has assumed Morgan's claim to the Work in subrogation, AIG is the rightful owner of the Work.

6. In accordance with 21 U.S.C. § 853(n), Petitioner asserts AIG possesses superior legal interest in the Work as the subrogated insurer, and that Petitioner's superior right, title and interest in the Work renders the proposed forfeiture of the Work invalid.

7. The United States and Chowaiki have already taken the position that Chowaiki has forfeited any right, title and interest in the Work as a result of Chowaiki's guilty plea to the charge of wire fraud in violation of 18 U.S.C. § 1343. *See* Amended Consent Preliminary Order of Forfeiture, Docket Entry 19, at p. 4. Moreover, the United States and Chowaiki also agreed the Work was one of a schedule of pieces of artwork which the United States would attempt to return to the rightful owners. *Id.* at p. 5.

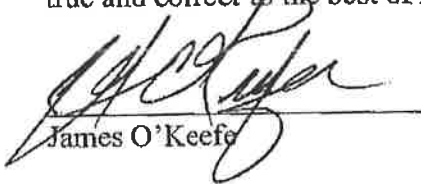
8. By virtue of its ownership interests, AIG is entitled to obtain absolute title and immediate possession of the Work; or alternatively, the monetary value of AIG's interest in an amount to be determined, but no less than its payment of \$450,000.

WHEREFORE, Petitioner, AIG, respectfully requests that the Court set a hearing for the purpose of adjudicating AIG's interest in the Work identified in the Amended Consent Preliminary Order of Forfeiture; and that upon the hearing, ordering the Work be returned to AIG, with such other and further relief as this Court deems just and proper.

Dated: New York, New York
July 9, 2018

VERIFICATION

I, James O'Keefe being sworn on oath and under the penalty of perjury, state that I have read the above Verified Petition, I have knowledge of the facts set out therein, and that those facts are true and correct to the best of my knowledge and belief.



James O'Keefe

Respectfully Submitted,



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